

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking to Consider Rules  
to Implement the Broadband Equity, Access, and  
Deployment Program.

R.23-02-016  
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**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON THE ORDER  
INSTITUTING RULEMAKING TO CONSIDER RULES TO IMPLEMENT THE BEAD  
PROGRAM**

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April 17, 2023

# **COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO ON THE ORDER INSTITUTING RULEMAKING TO CONSIDER RULES TO IMPLEMENT THE BEAD PROGRAM**

The City and County of San Francisco (“San Francisco”) respectfully submits these Comments in response to the *Order Instituting Rulemaking to Implement the Broadband Equity, Access, and Deployment Program* (“OIR”), issued March 1, 2023, and pursuant to Rule 6.2 of the California Public Utilities Commission’s (“Commission”) Rules of Practice and Procedure.

## **I. INTRODUCTION**

The Commission issued this OIR to consider rules for determining grant funding, eligibility, and compliance for funds distributed to California under the federal Broadband Equity, Access, and Deployment (“BEAD”) Program.<sup>1</sup> Digital equity is an issue of longstanding importance to San Francisco. San Francisco’s vision for digital equity is “full and equitable access to digital technology and its benefits so all San Francisco residents and communities can thrive, regardless of demographics.”<sup>2</sup> San Francisco is committed to a multitiered approach to digital equity to ensure that San Francisco’s most vulnerable residents have access to affordable, high-speed internet services. To this end, San Francisco appreciates the opportunity to participate in the Commission’s rulemaking in its development and implementation of the BEAD Program for the State.

## **II. PRELIMINARY SCOPE OF ISSUES AND QUESTIONS**

The OIR presents a preliminary scope of issues and questions to address the development of these rules, and invites parties to respond in detail to these issues and questions as they may inform a staff proposal.<sup>3</sup> San Francisco makes the following recommendations:

- The Commission should remain flexible in allowing prospective subgrantees to define their own proposed project areas.
- The Commission should require prospective subgrantees to coordinate with local and tribal jurisdictions on project-related issues specific to their jurisdiction, including

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<sup>1</sup> OIR at 1.

<sup>2</sup> CITY AND COUNTY OF SAN FRANCISCO, Digital Equity Strategic Plan 2019–2024, 5 ([https://sfmohcd.org/sites/default/files/SF\\_Digital\\_Equity\\_Strategic\\_Plan\\_2019.pdf](https://sfmohcd.org/sites/default/files/SF_Digital_Equity_Strategic_Plan_2019.pdf)).

<sup>3</sup> OIR at 8.

equitable workforce development opportunities and identifying underserved and unserved populations.

- The Commission should allow prospective subgrantees to seek alternative connections if the state middle mile network is not available or is not cost-effective.

San Francisco discusses these recommendations as they relate to preliminary scoping issues 2, 4, and 8.

### **Scoping Issue 2**

**Geographic Level.** The Notice of Funding Opportunity gives flexibility to states to solicit proposals from prospective subgrantees at the geographic level of their choosing—for example, on a per-location basis, per-census block basis, per-town, per-county or another geographic unit. States may alternatively solicit proposals for project areas they define or ask prospective subgrantees to define their own proposed project areas. What is the best, or most appropriate, geographic level for subgrantee proposals?

Prospective subgrantees should be allowed to define their own geographic areas, building from the most basic per-location basis. San Francisco has many small pockets of unserved and underserved residents who do not necessarily reside in areas that can be distinctly defined by a geographic unit. For example, San Francisco neighborhoods often have mixed economic and demographic characteristics so that an underserved location housing low-income residents may be adjacent to a location housing more affluent residents. These residents are typically among the most vulnerable populations that have been denied broadband service and are further cut off from economic, educational, health care, and cultural opportunities afforded their neighbors.

In order to narrow the digital divide as the BEAD program intends, small-scale projects must be eligible for funding. Such projects could include a cluster of single-room occupancy (SRO) hotels, a single affordable housing building, or an older multi-tenant residential building that has not yet received broadband service. The BEAD process requires flexibility to pursue deployments in the manner best suited for a population.<sup>4</sup> Projects proposed on a per-location basis should be deemed eligible for funding.

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<sup>4</sup> *Notice of Funding Opportunity – Broadband Equity, Access, and Deployment Program (NOFO)*, National Telecommunications and Information Administration (NTIA), p. 7.

#### **Scoping Issue 4**

**Selection Among Priority Broadband Projects.** In addition to the Primary Criteria and Secondary Criterion required in the Notice of Funding Opportunity, which additional prioritization factors should be considered? How should they each be measured, and should they be weighted in prioritization?

The NTIA encourages Eligible Entities to incorporate additional secondary criteria.<sup>5</sup> San Francisco supports incorporating local and tribal coordination and equitable workforce development opportunities as part of the secondary criteria. San Francisco proposes requiring each prospective subgrantee to provide a letter from the city, county or tribal representative confirming coordination with the local or tribal jurisdiction on specific concerns and interests of the community including:

1. How the project meets the needs of unserved and underserved populations within the local or tribal jurisdiction;
2. The routes and placement of facilities in the public right of way;
3. Types of regulatory and permitting requirements necessary to complete the project in a timely manner; and
4. Contributions of the project to workforce development needs in the community. The local or tribal jurisdiction could append to this letter any documentation of specific concerns in these four required areas or other interests of the community.

#### **Scoping Issue 8**

**Statewide Middle Mile.** How should the Commission prioritize subgrantee project proposals that plan on utilizing the statewide open-access middle mile network? Should the Commission require applicants proposing to build their own middle mile infrastructure with BEAD funds to make their network open access? In the event the middle mile portion of an application significantly overlaps the statewide middle mile network, should the applicant be required to consult with the California Department of Technology?

The Commission should encourage projects to utilize the statewide middle mile network. However, the Commission should allow prospective subgrantees to seek alternative connections if the state middle mile network is not available or is too costly to reach. Undoubtedly, the state middle mile network will most often be the most efficient alternative, however, there will be cases where the state middle mile network will not be the most efficient or effective option.

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<sup>5</sup> NOFO, p. 44.

While there was an effort to place the middle mile network in proximity to high need areas, there may not be an access point to the middle mile network close enough to make it cost-effective. The middle mile network is also not yet complete, making the success of BEAD projects contingent on a middle mile network that is not complete, has no established interconnection process, and no known pricing. This creates too much uncertainty. In addition, providers expanding existing networks may not need the new middle mile network because they have existing arrangements.

As an alternative, the Commission could require applicants to consult with the state middle mile network third party administrator, CENIC's Golden State Net, to confirm that the middle mile network is the most efficient alternative, prior to submitting their proposals.

### **III. COMMUNICATIONS**

San Francisco consents to e-mail only service and requests the addition of the following individuals to the service list for R.23-02-016:

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#### IV. CONCLUSION

San Francisco looks forward to working with the Commission and parties in its development of rules and procedures for the BEAD program.

Dated: April 17, 2023

Respectfully submitted,

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